# RULES OF PROCEDURE EDINBURGH/BARTHOLOMEW/ COLUMBUS JOINT DISTRICT PLAN COMMISSION

February March 20050



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# **RULES OF PROCEDURE**

# EDINBURGH/BARTHOLOMEWCITY OF C/COLUMBUS JOINT DISTRICT OLUMBUS

# **PLAN COMMISSION**

# ARTICLE I. AUTHORITY, DUTIES

#### Section 1. Authority

The Edinburgh/BartholomewCity of /Columbus Joint District Plan Commission (hereinafter called "Commission") exists as a joint district commission under authority of Indiana Code an advisory plan commission under authority of Indiana Code 36-7-4-202 and Section 2.34 of the Code of the City of Columbus, Indiana, and any amendments thereto. These rules are adopted in accordance with the requirements of IC 36-7-4.1 and by ordinances adopted by the Board of County Joint District Council of Bartholomew County, the Town Council of the Town of Edinburgh, and the Common Council of the City of Columbus. These rules are adopted in accordance with the requirements of IC 36-7-4-401.-401.

#### Section 2. Duties

The duties of the City of Columbus Plan Commission shall be those set forth in IC 36-7-4-400, et. seq. COMMISSION DUTIES AND POWERS (the "400 Series"), and such other responsibilities as may be assigned to it by the Common Council of the City of Columbus-and IC 36-7-5.1

# Section 3. Seal Membership

The seal of the City of Columbus is hereby declared to be the seal of the Commission, except that the inscription shall read "City of Columbus Plan Commission." The Commission shall consist of 10 voting members, appointed in accordance with IC 36-7-5.1-9.

#### Section 4. MembershiRules p

The Commission shall consist of 11 voting members, appointed in accordance with IC 36-7-4-207 and IC 36-7-4-214. In addition, there shall be one liaison member appointed by the Bartholomew County Plan Commission, with said liaison member having all rights of participation in the deliberations of the Commission except the right to vote or hold office.

Recognizing that the commission is charged with certain duties and responsibilities to the public and that the full discharge of those responsibilities requires participation in the discussion and voting on the matters before the commission, it is the Commission's policy that regular attendance is expected. In the event that a member is absent for more than three (3) regular meetings in any 12-month period, the Plan Commission president shall notify the appointing authority of such absences and ask the appointing authority to review the appointment. In all matters not otherwise provided for by statute, ordinance, or these rules, the most recent edition of Robert's Rules of Order, as interpreted by the Commission's presiding officer, shall govern the conduct of Commission meetings.

#### Section 5. Meetings

All meetings of the Commission shall be conducted in accordance with IC 5-14-1.5, the Indiana Open Door Law, and any amendments thereto. On-site inspections of property involved in petitions before the Commission shall not be considered meetings.

A. Regular Meetings - The Commission shall hold a regular meeting on the first Wednesday of each month at 4 p.m. Whenever the regular meeting date falls on an official holiday of the City of Columbus, another date shall be selected. A schedule of all regular meetings shall be published each year by the staff of the

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Commission. All regular meetings will be held at the Columbus City Hall, unless another location is published may establish a schedule of regular meetings.

- B. Special Meetings In accordance with the provisions of IC 36-7-4-307, special meetings of the Commission may be called at any time by the president or by two members upon written request to the Commission's staff. The staff shall notify Commission members of such special meeting at least three days in advance of such meeting. Written notice of a special meeting shall not be required if the time and place of the special meeting has been fixed in a regular meeting of the Commission, provided that all members of the Commission are present at that regular meeting.
- B.C. Cancellation Whenever there is a lack of business for Commission consideration, the president may dispense with a regular meeting. In such cases, the staff of the Commission shall give written notice to all members, and the news media shall be notified of such cancellation. Whenever it is determined that a quorum is not available for a regular or special meeting, the president of the Commission may dispense with such meeting, and all business scheduled for such meeting will be automatically continued to the next regular or special meeting. In such cases, the staff of the Commission shall give written or oral notice to the Commission members, those having business before the Commission, and to the news media. The president of the Commission also may dispense with a scheduled regular or special meeting in the event of natural disaster, snow emergency, or similar causes. In such cases, the staff of the Commission shall give written or oral notice to the Commission members and to those having business before the Commission if possible, and the staff shall notify the news media of the cancellation. In the event of cancellation for any reason, the president may require re-notification to Interested Parties, with such notice to be paid for by the petitioner or by the Commission as the president deems appropriate.

#### ARTICLE II. OFFICERS AND STAFF

# Section 1. Commission Officers

At its first regular meeting in each year, the Commission shall elect from its members a president, vice president, and secretary.

# Section 2. Duties of Commission OfficersCommission Secretary

The executive director is hereby designated to serve as the Commission secretary.

#### Section 3. Duties of Commission Officers and Secretary,

- a. President The president shall preside over commission meetings and on behalf of the Commission shall exercise general supervision over the affairs of the Commission, including the execution of contracts and agreements, the appointment of committees and representatives (except as otherwise provided by statute, ordinance, or these rules), the determination of points of order and procedure, and the signing of all official documents.
- b. Vice president The vice president shall have authority to act as president of the Commission during the absence or disability of the president.
- c. Secretary The secretary shall certify all official acts of the Commission, including the written votes of the Commission on any and all matters for which such vote is required. In the event of the absence or disability of both the president and the vice president, the secretary shall preside, provided, however, the first and only item of business to be presented by such presiding officer shall be the election of a president pro tempore. In the event of the absence or disability of the secretary, the president of the Commission shall select a secretary pro tempore.
- d. President Pro Tempore In the event the absence, disability, or disqualification of the president, vice president, and secretary, the Commission shall elect a president pro tempore for the meeting or item(s) of business affected.

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#### Section 3. Commission Staff

- A. Appointment The planning director shall be appointed by the mayor of the City of Columbus with the concurrence of the Commission, as provided in Chapter 2.34.010 of the Columbus City Code and any amendments thereto.
- B. Duties The Columbus/Bartholomew Planning Department shall serve as staff to the Commission, and the planning director shall be the designated executive of the staff. All Commission requests for information or technical advice shall be made to the director who will be responsible for assigning staff members to gather such information or provide such advice and for conveying such information or advice to the Commission. The director shall be responsible for the administration of the Commission's office, the employment and compensation of employees, and administration of any funds allocated to the Commission by the Common Council. The director shall be delegated authority to perform ministerial acts in all cases except where final action of the Commission is necessary. The director also shall employ the Commission's recording secretary and shall be responsible for the keeping of an accurate record of all Commission proceedings, including the keeping of records and minutes, the custody and preservation of all papers and documents of the Commission, the maintenance of a current roster and qualification of members, and records of attendance. The staff shall prepare each year an annual report of the Commission's activities. If the Commission approves the report, the staff will forward it to the mayor and Common Council and make copies available to the public.
- C. Directives Any policies or assignments to the staff not covered by these regulations shall be by resolution of the Commission.

#### ARTICLE III. CONDUCT OF MEETINGS

#### Section 1. Quorum

Pursuant to IC 36-7-4-301, sSix (6) voting members of the Commission shall constitute a quorum. No business may be transacted and no public hearing may be opened at any meeting of the Commission unless a quorum is present in attendance.

# Section 2. Full Disclosure

All presentation of information on a petition pending before the Commission should take place in an open, public meeting, not in private, unofficially, or with any Interested Parties, as defined in Article VII, Section 3 B, absent. While it is recognized that it is not possible to eliminate all such communication, Commission members are discouraged from initiating ex parte communication. When such communication occurs unavoidably, Commission members are expected to invite the parties to share their information with the Commission. If the parties choose not to share their information with the Commission and the member considers the information to be relevant, the member will disclose the communication and make the information received part of the public record. This section does not apply to activities of the Commission which are not quasi-judicial in nature, such as development of a comprehensive plan or ordinance text amendment.

# Section 23. Voting

- A. Majority In accordance with IC 36-7-4-302, no action of the Commission is official unless it is authorized at a regular or special meeting by a majority of the entire membership of the Commission.
- B. Method All votes of the Commission on matters requiring a public hearing, ether than those on the consent agenda, shall be by ballot, with the form of the ballot to be approved by the Commission. Each

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ballot must bear the signature of the member voting by such ballot. Secret ballot votes shall not be permitted. Items of business not requiring a public hearing and all items on the consent agenda may be decided by voice vote. If the outcome of a particular vote is unclear, the president or any member may request a roll call voteshall be by voice or.

- Conflict of interest In accordance with IC 36-7-4-223, a Commission member may not participate in a hearing or decision concerning a matter in which he/she has a direct or indirect financial interest. For the purposes of these rules, athis section, any direct or indirect financial interest shall mean any economic interest. Additionally, a member who is an interested party entitled to notice under Article VII, Section 3 of these rules is deemed to have a direct or indirect financial interest in the matter and shall be disqualified as provided in this section. may not participate if he/she has a disqualifying non-economic conflict of interest. A disqualifying non-economic conflict of interest is any interest in the property or relationship with the parties involved in the matter which would prevent the member from participating in the hearing or decision in a fair and impartial manner. A member shall declare his/her potential conflict of interest, whether or not economic in nature. Wuestion as to whether such conflict exists may be determined by the president or the Commission attorney. When there is uncertainty as to the applicability of this section, the member shall b The Commission shall enter in its records the fact that its member has a disqualification. Members are expected to disclose any personal, nonfinancial interest in any matter before the Commission, and may abstain from participation and voting on such matter. Such member may disqualify himself/herself or may be disqualified by a majority vote of the remaining Commissioners. A Commission member who is an Interested Party as defined in Article VII shall be declared to have a conflict of interest on that matter. The Commission shall enter in its records the name of a member who has a disqualification. A member who determines that he/she has or is determined by the Commission to have a conflict of interest shall remove himself/herself from the Commission proceedings and leave the chamber during the deliberation of the subject of such conflict. Such abstention shall not be considered a negative vote. Nothing in this section shall prevent a member of the Commission from presenting a petition on his/her own behalf, but members shall not appear before the Commission on behalf of others.
- D. Required Except as provided in subsection "C" above, all Commission members present shall vote on each matter for which a public hearing is held. An abstention for any other reason shall have the same effect as a negative vote.
- D.E. Absentee Absentee or proxy voting shall not be permitted. Members must be present for the public hearing and ballot in order to be eligible to vote on any matter. In the event that a member is absent for part of a public hearing, such member's eligibility to vote on the matter shall be at the discretion of the presiding officer. A member is eligible to vote on a continued matter provided that the member listens to the tape recording or reads a transcript of the proceedings before the vote is taken.

# Section 4. Consent Agenda

Routine or noncontroversial items may be decided by consent. The Commission president shall read the titles of the items on the consent agenda. Any member of the Commission or any member of the audience my request that an item be removed from the consent agenda and placed on the regular agenda. In that event, the Commission president shall then determine the appropriate place on the agenda for the item, and it will be considered by the Commission as a regular item of business. For items decided by consent, the staff report and recommendation shall serve as the Commission findings and decision.

# Section 35. Order of Business

The order of business for regular meetings of the Commission shall be as <u>listed below, except that said order of business may be changed by the president upon the consenting vote of a majority of those members present.</u>

\_\_\_set forth below, except that the president of the Commission, after consultation with the staff and/or other members of the Commission, may alter the order of business for regular meetings if such alteration is construed to promote efficiency and convenience for the Commission, petitioners, and the public. The order of business

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for a regular or special meeting may be otherwise altered and changed after the president has announced the agenda only upon a consenting vote of a majority of the commissioners present. Roll call of members Minutes **Public Hearings** 3.4. CommunicationsConsent agenda Formatted: Bullets and Numbering 4.5. Old business 5.6. New business Discussion Items Reports and recommendations Adjournment ARTICLE IV. PUBLIC HEARINGS Section 1. Procedure Decket Opening the hearing - The president shall call the docket number of the item scheduled for public hearing and request any member having a conflict of interest to disclose such conflict. The president shall then declare the public hearing open. Order of events testimony – The order of events testimony shall be as follows: Background and comments by the Commission's staff 1. 2. Presentation of request by petitioner 3. Comments and questions by members of the audienceCommission Rebuttals Opening of public hearing 4. 5. Summations Comments and questions by members of the audience Closing of public hearing Closing comments by petitioner Formatted: Indent: Left: 0.3" Discussion and questions by members of the Commission **Motion** Formatted: Indent: Left: 0.3" Vote Formatted: Indent: Left: 0.3" Closing the hearing Limitation on comments – After all public comments have been heard under the rules of this section, the presiding officer shall declare the public hearing closed and shall call for a motion. Additional public comment shall not be permitted after the close of the public hearing. Any motion which has been made and seconded is open for discussion by the Commission members, but such motion is closed to discussion by the public unless the presiding officer specifically allows such discussion. The presiding officer shall have the authority to limit such discussion by the public or the Commission members. Commission members may ask questions of the petitioner and/or of members of the audience during this discussion period. The presiding officer shall have the authority to limit discussion by the public or the Commission members. Formatted: Indent: Left: 0" D. Method of Voting - Each motion on a matter requiring a public hearing, other than those decided as part of Formatted: Bullets and Numbering the consent agenda, shall be by ballot of the members, in accordance shall be in accordance with the provisions 5

of Article III, Section2—3 of these rules. Each ballot shall bear the docket number of the petition. At the conclusion of the vote, the secretary shall report the vote and it shall be so recorded. The vote of each member shall become a part of the record on the petition, and the secretary shall identify the members casting minority ballots. The vote of each member shall be disclosed by any Commission officer or the staff to anyone requesting such information.

#### Section 2. Conduct

- A. Representation The petitioner may appear in person, by agent, or attorney, and present any supporting witnesses, evidence, statements and arguments in favor of the request. Failure of the petitioner to appear may result in dismissal of the petition pursuant to Article V, Section 2 hereof. Remonstrators and persons in favor of the request may appear in person, by agent or by attorney and present witnesses, evidence, statements and arguments. Any person interested in any petition shall have the right but shall not be required to enter a written statement or other presentation in the public hearing.
- B. Commission participation The Commission members shall be provided adequate opportunity to examine witnesses and question any evidence, statements and arguments in the interest of a fair public hearing.
- Identification All persons wishing to be heard on any matter in a public hearing must stand before the Commission and provide their names and addresses for the record.
- D. Commentary addressed to Commission All commentary at a public hearing shall be addressed to the Commission through its presiding officer. Such commentary shall not be permitted between opposing parties without the consent of the presiding officer.
- E. Authority of presiding officer The presiding officer shall have the authority to prohibit repetitious, irrelevant, or immaterial testimony and shall have authority to limit the length of testimony by each speaker deemed appropriate to a fair public hearing.

F. Orderly conduct – Every person appearing before the Commission shall abide by the order and direction of the presiding officer. Discourteous, disorderly, or contemptuous conduct shall not be tolerated, and the presiding officer may take such action as is deemed necessary to prevent such conduct\_r specifically including but not limited to requiring the offensive person(s) to depart the meeting; summoning law enforcement personnel, or adjourning the meeting.

# **ARTICLE V. DISPOSITION OF PETITIONS**

# Section 1. Motions

The final disposition of any petition duly filed and brought before the Commission shall be in the form of a motion, properly adopted, specifically setting forth such disposition.

#### Section 2. Dismissal

- A. Want of prosecution The Commission may dismiss a petition if the petitioner or authorized representative does not appear to present and speak in favor of such petition or if such petition has been improperly filed as required by these rules.
- B. Lack of jurisdiction The Commission shall dismiss a petition if it finds it has no jurisdiction over the subject matter thereof.

#### Section 3. Withdrawal

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- A. Without prejudice Any petition may be withdrawn without prejudice provided a written request for withdrawal signed by the petitioner or an authorized representative is received by the Commission's staff at least 14 days before the scheduled public hearing or otherwise at the discretion of the Commission.
- B. With prejudice Any request for withdrawal made less than 14 days before the scheduled public hearing may be granted or denied by the Commission. Such request may be made in writing or orally at the Commission meeting and must state the reasons for the request. If the Commission votes to permit withdrawal, the petition shall not again be placed on the docket for public hearing within a period of three (3) months from the date of the originally scheduled public hearing, except upon a motion duly adopted by a majority of the members of the Commission to permit such re-docketing.
- C. Not permitted No petition may be withdrawn after a motion has been made and seconded and a vote has been ordered by the presiding officer.

# Section 4. Amendment

A. Increased density or intensity – No petition can be amended in a manner which increases the intensity of use (e.g., adds additional lots or land, changes to a zoning district permitting more uses or more intensive uses) after the filing deadline.

Any such amendment request will result in postponing consideration of the petition for one month. If notice in accordance with Article VII already has been given, the petition as amended shall be readvertised and new notice given to Interested Parties. The petitioner shall be required to pay the costs of such readvertising and re-notification.

A.B. Decreased density or intensity – It shall be within the discretion of the Commission to approve a petitioner's request to amend the petition in a manner which decreases the intensity of use (e.g., removes lots or land, changes to a zoning district which is more restrictive). Any Interested Parties may be heard on the subject of such amendment. The Commission may require such amended petition to be continued and may require readvertising and re-notification of Interested Parties in the interest of providing a fair and adequate public hearing.

# Section 5. Continuance

- A. Requests Any person may request a continuance in writing prior to the public hearing and/or orally at the beginning of the public hearing. The person requesting such continuance shall be required to show good and sufficient cause for such continuance, and it shall be within the discretion of the Commission to grant or deny such request.
- A.B. Motion by commission Any member of the Commission may at any time move to continue the public hearing of any petition. Such a motion duly seconded and adopted shall continue the public hearing to the time specified in the motion. The Commission may include in the motion specific instruction for readvertising and/or re-notification of Interested Parties. If such re-notification is required, the petitioner may be required to pay the costs associated therewith. Whenever the Commission finds that there are numerous and/or substantial changes to be made in a subdivision proposal before it can be approved, the Commission shall continue such petition until the changes can be incorporated by the petitioner and adequately reviewed by the staff and Commission.
- B.C. Automatic In the event that the Commission does not achieve the required six (6) votes to approve or deny a petition, such vote shall be declared indecisive, and the petition shall be continued automatically. Before declaring a petition continued on this basis, the presiding officer shall call for another motion. No petition for rezoning shall be continued more than two successive times under the provisions of this

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paragraph. If upon the third successive consideration of a rezoning petition resulting from continuances under the provisions of this paragraph, the Commission does not arrive at a recommendation with the necessary majority of six votes, it shall forward the petition to the Common Council with a report stating the Commission's inability to arrive at a recommendation within a reasonable time, and the Common Council may decide the petition without a recommendation to approve or deny from the Commission.

←D\_Improper notice – If proper notice under applicable laws and Section VII of these rules has not been given, the Commission shall continue the petition to allow time for proper notice to be given.

# Section 6. Approval

- A. Subdivisions, detailed planned unit developments (PUD) and special use site plans The Commission has the authority to approve subdivisions of land under the terms of the Subdivision Control Ordinance (Chapter 16 of the Columbus City Code). It also has the authority to approve detailed planned unit developments and special use site plans under the terms of the Zoning Ordinance (Chapter 17 of the Columbus City Code). Such approval may be conditional or unconditional.
  - 1. Conditional approval A motion to approve a petition may be conditional upon a petitioner's compliance with a requirement or requirements imposed by the Commission. Such condition(s) of approval shall be specifically stated and recited to the petitioner. The Commission may impose a time limit upon the fulfillment of any such requirement(s). The petitioner shall be required to notify the Commission's staff of the fulfillment of such requirement. In the event any condition of the decision has not been fulfilled or the time for compliance has expired, the staff shall issue a request to the petitioner to show cause why the decision should not be revoked and rescinded. The Commission may investigate the matter and take such remedy as it deems appropriate.
  - 2. Unconditional approval If there are no conditions imposed upon the approval of a petition, the president and secretary shall sign the permanent drawing(s) and shall direct the staff to affix the Commission's seal thereon.
- B. Preliminary PUDs and special uses As provided in the Zoning Ordinance, the Commission may approve a preliminary PUD or special use rezoning application conditionally or unconditionally as described in Sections 1 and 2 above. If the approval is conditional, the Commission's recommendation is not final until the plans have been revised in accordance with the conditions. Within ten (10) days after the preliminary PUD or special use site plan is approved, the president shall certify the recommendation and direct the staff to forward it together with a report describing the Commission's action to the Common Council.
- C.B. Zoning Ordinance amendments As provided in the Zoning Ordinance, the Commission may recommend favorably or unfavorably upon a proposed amendment, or it may recommend approval subject to written commitments.—If the Commission recommends favorably upon a petition for amendment to the Zoning Ordinance, the president and secretary shall sign the resolution recommending such amendment. Within ten (10) days after the Commission's action, the president shall certify the recommendation and direct the staff to forward it together with a report describing the Commission's action to the Common Joint District Council for consideration.

# Section 7. Denial Disapproval

- A. Subdivisions, detailed planned unit development site plans, special use site plans — If the Commission finds that a petition does not meet the criteria established by ordinance(s) for approval, it shall deny the request and make written findings setting forth its reasons and shall provide the applicant with a copy. This decision must be signed by an officer of the Commission or an official of the Columbus/Bartholomew Planning Department.—
- B. Zoning Ordinance amendments If the Commission disapproves of a Zoning Ordinance amendment

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which has been referred to it for recommendation, the Commission president shall within ten (10) days after the Commission's action certify the recommendation and direct the staff to forward it together with a report describing the Commission's action to the Common Joint District Council for consideration.

C. Refiling – No petition for subdivision of land which has been denied by the Commission and no petition for amendment to the Zoning Ordinance which has been denied by the Common Council shall again be placed on the docket for public hearing within a period of one year from the date of such disapproval, unless the Commission finds that there is a substantial change in the petition or circumstances affecting the petition, in which case the matter may again be placed on the docket only if a motion to permit re-docketing is duly adopted by the Commission.

# Section 8. No Recommendation

In accordance with IC 36-7-4-608, the Commission may elect to forward a petition for a zone map amendment to the Common Council with no recommendation.

#### ARTICLE VI. FILING PROCEDURES

#### Section 1. Application

Each petition to the Commission shall be on application forms prescribed by the staff and shall be accompanied by such information and exhibits as specified on such forms and/or required by applicable ordinances. Any communication purporting to be a petition not on the prescribed forms or not containing the information required shall be considered incomplete and shall not be docketed.

# Section 2. Filing Deadlines

The staff shall prepare, no later than the first day of December of each year, a schedule of the filing deadlines for the ensuing year. Such schedule shall provide for adequate time for the staff to review the proposal and offer technical advice to the Commission and shall provide adequate time for issuances of required notices. Petitions to the Commission shall be filed with the Columbus/Bartholomew Planing Department which shall schedule the matter for consideration at a Commission meeting. The scheduled meeting date shall provide for adequate time for the staff to review the proposal and offer technical advice to the Commission and shall provide adequate time for issuances of required notices, but the meeting date shall not be more than 45 days after filing Any application which is incomplete at the time of the filing deadline shall not be docketed for hearing.

#### Section 3. Eligible Applicants

The owner(s) of property included in any petition before the Commission must consent to the filing of the application. Such consent may be evidenced by the owner's <u>notarized</u> signature on <u>the said</u> application or by signature of a person having power of attorney authorizing such signature. including a copy of the power of attorney. In the case of property which is being purchased under a land contract, the signatures of both the contract purchasers and the contract sellers or their duly authorized agents shall be required.

#### Section 4. Changes to Petitions

After a petition has been filed and required notices have been given, no changes which significantly increase the land area, alter the street or lot pattern, increase the intensity of the development, or in any other way substantially affect the proposal may be made. Other changes which are requested by the staff or the Subdivision Review Committee for compliance with the technical standards of the Subdivision Control Ordiannce may be made after such notice; however, such changes will be reviewed by the staff only if they are received in a timely manner before the date of the commission meeting. In general, substantial changes must be received by the staff fourteen days before the meeting and minor changes seven days before the meeting. These times may be varied at the discretion of the staff in consideration of the nature of the changes to be made, the extent of review required, the current workload, and other relevant factors.

# ARTICLE VII. NOTICE REQUIREMENTS

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# Section 1. Contents

Any notice of public hearing required by <u>federal</u> state, or local law shall contain <u>as a minimum the following</u> the information: <u>required by applicable law.</u>

a. Docket number and the substance of the matter to be heard a.b. Gener

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# Section 2. Publication

When the Commission is required by law to publish in a newspaper of general circulation a notice prior to any public hearing of the Commission, the staff shall cause such notice to be published in accordance with the time periods established by applicable law. Proof of such publication shall be obtained by the staff and kept with the records of such public hearing.

# Section 3. Mailed Notice

The Commission shall provide mailed notice to Interested Parties in accordance with this section.

- A. Method of Notice The staff shall give notice of any matter requiring public hearing or action by the Commission to all Interested Parties by first class mail sent at least ten (10) calendar days before the Commission meeting. The staff shall give notice of the right to appeal any decision of the Plat Committee to all Interested Parties by first class mail within ten (10) calendar days after the decision.
- B. Interested Parties In accordance with IC 36-7-4, Interested Parties are hereby determined to be the following:
  - For Rezonings: Owners of all property within a distance of one city block or 300 feet from the
    perimeter of the subject property, whichever is less, and the owners of any subject property who
    are not petitioners. For the Columbus Municipal Airport (CMA), Interested Parties are all property
    owners, leaseholders, and building owners within one city block or 300 feet of the perimeter of the
    property involved in the request, whichever is less.
  - For Sign development plans, site plans, development plans, or subdivisions requiring action by the Commission: Owners of all property adjoining the property involved in the request. For CMA, Interested Parties are owners and leaseholders of adjoining property or buildings.
- C. Subject Property For purposes of this Article, *subject property* is defined as follows:
  - 1. The entire lot or parcel involved in the request; and
  - Except in the case of the CMA all adjoining property which is in the same ownership as the parcel
    involved in the request. At CMA the subject property shall include any adjoining property or
    buildings which are owned or leased by any petitioner other than the Board of Aviation
    Commissioners.
- D. Adjoining Property For purposes of this Article, *adjoining property* is defined as follows:
  - 1. All property which has any contiguous boundary with the subject property; and
  - All property which would be contiguous if it were not separated from the subject property by a street, railroad right-of-way, easement, alley, runway, or similar feature.

- In addition to enumerated paragraphs 1 and 2, with reference to CMA, all property which would be contiguous if it were not separated from the subject parcel by land which is leased by CMA for agricultural purposes.
- E. Property Owners For purposes of this Article, property owners shall be defined as follows:
  - The names and addresses of owners of record of real property as listed in the office of the auditor
    of Bartholomew County.
  - If property is subject to the Horizontal Property Law (IC 32-1-6), the owner of each condominium unit within the area defined in Subsection b shall be entitled to notice.
  - If the area defined in Subsection B is common open space associated with a Horizontal Property Regime, subdivision, PUD or similar entity, notice may be given to the association of owners as set forth in the recorded covenants or condominium documents.
- Staff's Responsibilities The staff shall be responsible for researching and notifying Interested Parties set forth in this Article.

#### Section 4. Evidence of Notice

A certificate of mailing issued by the U.S. Postal Service shall be considered evidence that notice has been given. Personal appearance at the public hearing also shall constitute evidence of notice.

#### **ARTICLE VIII. COMMITTEES**

# Section 1. Authority

The presiding officer is hereby authorized to appoint permanent and temporary committees to facilitate the work of or advise the Commission. Such committees may comprise Commission members only, or they may include other Interested Parties. A chairman shall be appointed for each committee, and reports on their assignments shall be made a part of the record. The president shall be an ex officio member of any committee so appointed.

# Section 2. Standing Committees

The following shall be standing committees:

- A. Executive Committee An executive committee consisting of the officers of the Commission and its immediate past president (if still a Commission member) shall be a permanent committee which shall be authorized to act on behalf of the Commission on all matters except those where final action of the Commission or Plat Committee is required. The president shall be chairman of said committee.
- B. Plat Committee A Plat Committee consisting of three members shall be a permanent committee. One of the members shall be an officer of the planning department; one shall be a member of the engineering department, and the remaining member shall be a citizen member of the Commission. Each member of the committee shall be appointed by the Commission for one year. The Commission may appoint alternate members to the Plat Committee who may serve as voting members in the event the regular member is unable to attend or abstains from voting. The alternate for the planning department member shall be another member of the department; the alternate for the engineering department shall be another member of that department, and the alternate for the Commission member shall be another citizen member of the Commission.
- C. Subdivision Review Committee A Subdivision Review Committee shall be a permanent committee consisting of the following members: planning director, city engineer, code enforcement officer, fire chief, manager of the utilities service board, representative of Ameritech, representative of CINergy/PSI, representative of Bartholomew County REMC, representative of the Bartholomew County Drainage Board,

or any successor to any of the above, and such other representatives as the planning director may invite to aid in the review of scheduled petitions. Members may designate representatives to participate in any and all meetings of the committee. The planning director or her/his designee shall serve as chairman of the committee. The Subdivision Review Committee is established for the purposes listed below. In no way is the existence of this committee to be construed to limit the scope of discussion or findings of fact on any matter before the Commission or to prevent any member of the committee from raising additional issues which may come to light after the committee meeting.

- To review all subdivision petitions filed with the Commission for compliance with the technical requirements of the Subdivision Control Ordinance.
- 2. To enhance the coordination of efforts to evaluate proposed land development.
- To encourage cooperation between the Commission, staff, and petitioners by resolving problems at the staff level where possible.
- To provide non-binding findings of fact and recommendations on subdivision petitions before the Commission.
- D. Nominating Committee A nominating committee consisting of at least three Commission members shall be appointed no later than the December meeting each year to provide candidates for Commission offices.
- E. Street Renaming Committee A street renaming committee shall be a permanent committee consisting of the following members: postmaster, fire chief, police chief, chief code enforcement officer, planning director, and city engineer. Members may designate representatives to participate in any and all meetings of the committee. This committee shall make recommendations to the mayor on the renaming of streets within the City of Columbus. In recommending street names, the Commission shall consider the following factors:
  - 1. Street names shall not duplicate other street names in the city or county.
  - 2. Street names shall, to the extent possible, be easy to understand.
  - 3. Street names shall be selected with due regard to historical names and events.

In the event that a street recommended for renaming is located in the city and the county, the committee shall consult with appropriate representatives of the county before making its recommendation to the mayor.

- F. Utility Review Committee A Utility Review Committee shall be a permanent committee consisting of the following members: one representative of the Commission, appointed by the president; the director of the City Utilities Department or designee thereof; the planning director or designee thereof. The Commission representative shall serve as chair of the committee. The committee shall meet on an as-needed basis to consider applications for connections to city utilities under the provisions of Ordinances #92-47 and #92-48. The committee shall meet to consider applications for service withing 30 days after the application is filed. The committee shall have the authority to approve or deny such applications or to refer them to the Commission. The committee may act only by unanimous vote of all three committee members; all applications which fail to receive a unanimous vote shall be forwarded to the Commission. Any applicant who is denied service by the committee may appeal the committee's decision to the Commission. Such appeal must be filed within 30 days after the decision.
- G. Landscape Review Committee The Landscape Review Committee shall be a permanent committee appointed by the Commission consisting of the following members: one citizen member of the Plan Commission; one person with knowledge of landscaping as evidenced by registration as a landscape architect, higher education in horticulture, or similar training; and one person interested in landscaping and community development. No more than one member of the committee may be engaged in the business of landscape design or of selling and/or installing landscape materials. The Plan Commission representative shall serve as chair of the committee. The members shall serve for three-year staggered terms. The

Commission may appoint alternates for each member. An alternate may serve in the event that the regular member is unavailable or has a conflict of interest. The committee shall meet on an as-needed basis to consider applications for approval of landscape plans under the provisions of Chapter 43 of the Zoning ordinance. The committee shall meet to consider applications for service within 21 days after the application is filed. The committee shall have the authority to approve or deny such applications or to refer them to the full plan commission. The committee may act only by unanimous vote of all three committee members; all applications which fail to receive a unanimous vote shall be forwarded to the Commission. Any applicant who is denied by the committee may appeal the committee's decision to the full plan commission. Such appeal must be filed within 30 days after the decision.

#### Section 3. Committee Meetings

The staff shall assist any and all committees established under this section in scheduling the times and places for meetings. In the case of the Subdivision Review Committee, the staff shall prepare, no later than the first day of December each year, a schedule of the meetings for the ensuing year and shall make such schedule available to committee members and Interested Parties.

# ARTICLE IX. BOARD OF ZONING APPEALS-HEARING OFFICER

#### Section 1. Establishment and Appointment of the Board of Zoning Appeals Hearing Officer

There is hereby established an alternate procedure whereby a BZA hearing officer conducts public hearings in accordance with the provisions of I.C. 36-7-4-900 *et. seq.* and particularly I.C Section 36-7-4-923 and 924 and this article. The hearing officer will be a staff member appointed by the director of planning.

#### Section 2. Limitations of Powers of the Board of Zoning Appeals (BZA) Hearing Officer

The BZA hearing officer shall be empowered to hear and render a decision in any proceedings for variances from the development standards and conditional uses. As provided by Indiana Law, the hearing officer may not hear any petitions for variances of use nor any appeals of any decision of the zoning administrator.

# Section 3. Hearing Before the Board of Zoning Appeals Hearing Officer - Conduct

- A. Rules All provisions adopted by the BZA under its Rules of Procedure, for the conduct of public hearings and procedure related thereto, which are not inconsistent with the law, the zoning ordinance and/or these rules shall apply to public hearings and proceedings before the BZA and its hearing officer. In addition to those persons set forth in Article VII, Section 3, notice shall be provided to the mayor, to the president pro tempore of the Common Council, and to the president of the Commission.
- B. Conflict of Interest The BZA hearing officer may not participate in a public hearing or decision of a matter in which the hearing officer has an economic interest as described in Article III, Section 3, or a personal interest. In the event such a conflict of interest occurs, the BZA hearing officer shall enter the disqualification on record. In such case the planning director may appoint another staff member to hear the case or may refer the case to the BZA.
- C. Unavailability of Hearing Officer In the event the BZA hearing officer is unable, due to sickness or unavailability, to conduct a public hearing upon proceedings which are scheduled before the BZA hearing officer, the planning director may appoint another staff member to hear the case or may refer the case to the BZA.
- D. Record The BZA hearing officer shall prepare and maintain a record of all proceedings conducted.

E. Notice of Decision – Within five (5) calendar days of the decision, the BZA hearing officer shall cause notice of such decision to be furnished in writing to the petitioner and remonstrators of record. For purposes of this paragraph, remonstrators of record shall be limited to those individuals or entities who testify at the public hearing or have filed written objections to the petition or application prior to or at the public hearing; provided, however, that if a group of individuals anmed on a written remonstrance, notice need only be furnished to their attorney, if they had been represented at the public hearing, or to the first three (3) individuals named on the written remonstrance. Notice shall be deemed given as of the date of mailing to said parties at their addresses of record, by first class United States mail.

# Section 4. Transfer of Proceedings from Board of Zoning Appeals Hearing Officer to Board

- A. Limitation on Transfer Request Once a petition has been filed for consideration before the BZA hearing officer, the proceedings may not be transferred to the BZA for public hearing upon request by either the remonstrator(s) or the petitioner(s), unless otherwise allowed by law.
- B. Transfer by Hearing Officer The BZA hearing officer may transfer a petition currently scheduled under the hearing officer procedure to the BZA without first conducting a public hearing or making a decision, when the BZA hearing officer determines that it would be in the best interest of all parties and/or the public for the BZA to hear, consider and act upon such petition. In any case where there appears to be conflicting interests or controversy, the hearing officer shall automatically transfer the petition to the BZA.
- C. Notice In the event the BZA hearing officer determines that a pending proceeding before the office should be transferred to the BZA, there shall be written notification provided to the petitioner of such determination, if made prior to the issuance of notice of the public hearing. If the BZA hearing officer makes a determination to transfer at any time after notice of the public hearing has been issued, the BZA hearing officer shall make an oral announcement at the scheduled public hearing the determination to transfer the proceedings and the date and time the public hearing will be held before the BZA. Except for notice by publication under I.C. 5-3-1, no other notice of the transfer or scheduling of the public hearing before the Board needs to be given by the BZA hearing officer.

# Section 5. Appeals from Decision of Board of Zoning Appeals Hearing Officer

- A. Right to appeal Any interested person who is aggrieved by a decision of the BZA hearing officer may request an appeal therefrom to the BZA. If a timely appeal is not filed, the decision of the BZA hearing officer shall be final.
- B. Appeal Procedure:
  - The interested person so aggrieved shall file in the office of the Plan Commission staff within the time period provided under I.C. 36-7-4-924 (g), a written request for a public hearing upon such an appeal. Such written appeal request shall contain a concise and plain statement of the nature of the matter involved and describe the reasons why such a decision is believed to have been arbitrary and capricious, illegal or contrary to law or the provisions of the ordinance of these rules, as the case may be. Such written request shall also be verified and signed by the aggrieved interested person. The appeal will be scheduled for the next available Board of Zoning Appeals meeting.
  - Any written request which is not so timely filed shall not thereafter be accepted for filing, and the interested person otherwise aggrieved shall be construed as having forever waived his or her right to appeal such decision.
  - The interested person requesting such appeal shall also be required to pay any filing fee imposed for such filing under these rules.

- C. Notice Notice of such appeal hearing shall be given by publication, in accordance with I.C. 5-3-1, to Interested Parties, as in any other public hearing before the BZA, and to any remonstrators as set forth in the Rules of Procedure of the BZA.
- D. Hearing The public hearing upon such requested appeal shall be conducted in the same manner as other public hearings held by the Board.
- E. Action by the Board After such public hearing, the Board shall either affirm, reverse, or modify the decision of the BZA hearing officer from which the appeal has been taken. Such action by the Board shall be considered as a final decision from which a further appeal may be prosecuted, in accordance with state law

# ARTICLE X. COMMISSION RECORDS

#### Section 1. Responsibility

It shall be the duty of the staff of the Commission to maintain all Commission files and records, including the official minutes of all meetings.

# Section 2. Minutes

The staff shall prepare an accurate record of all public hearings and official actions of the Commission, and the minutes representing such record shall be made available within a reasonable time after such public hearing or action to all members of the Commission. After approval by the Commission, such minutes shall be made publicly available.

# Section 3. Tape Recordings

The recording secretary may make taped or other mechanical recordings of the Commission's proceedings. Such recording products shall remain on file in the Commission's office for a period not less than one year from the date of the public hearing or determination, whichever is later. Such recordings shall not be removed from the Commission's office other than by the Commission or pursuant to an order of a court of competent jurisdiction. Interested parties may listen to such recordings in the Commission's office and may copy such recordings, under the supervision of the Commission's staff.

#### Section 4. Commission Case Files

The staff shall maintain a file for each petition placed on the docket of the Commission. Such files shall contain, as a minimum, the application form and supporting materials and any exhibits pertinent to the decision, conditions or other material related to the binding effects of the Commission's action.

# Section 5. Public Records

The records and files of the Commission shall be made available to the public under the provisions of IC 5-14-3, the Indiana Access to Public Records Law, and any amendments thereto. The planning director is hereby designated as the officer responsible for determining which documents of the staff and Commission are public records. Any person may file a written objection to a decision of the director under this section. Upon receipt of such objection, the director shall consult the Commission president and Commission attorney who shall decide whether a requested document is a public record.

# Section 6. Reports

The staff shall prepare an annual report regarding the Commission's activities. Copies of the report shall be provided to the Common Council and shall be made available to the public.

#### **ARTICLE XI. FEES**

#### Section 1. Schedule of Fees

The Commission shall, in accordance with the requirements of IC 36-7- 4-411 and IC 36-7-4-704, establish a uniform schedule of fees to defray the administrative costs connected with processing and hearing petitions for rezonings, special uses, and planned unit developments, for the checking and verifying of proposed subdivision plats, and for other official acts taken under provisions of the 400 Series. Such fees shall not exceed the actual costs of providing such services. Fees established shall include fees for copying documents under the provisions of IC 5-14-3-8(d).

#### Section 2. Payment Required

In no case shall the Commission take action on any petition for which applicable fees have not been paid in full. No part of any fee paid pursuant to this Article shall be returnable to the petitioner, unless the staff determines that the fee was charged in error.

# Section 3. Waivers

Nothing herein shall be construed to require a fee for actions initiated in the public interest by the Commission. Filing fees shall be waived for petitions filed by any local taxing authority.

# ARTICLE XII. AMENDMENTS AND SUSPENSION

# Section 1. Amendments

Amendments to the Rules of Procedure may be made by the Commission at any regular or special meeting upon the affirmative vote of six members, provided, however, that the proposed amendment shall have been presented in writing at a previous regular meeting of the Commission.

#### Section 2. Suspension of Rules

The suspension of any rule of procedure herein may be authorized by the Commission at any regular or special meeting upon the unanimous vote of those present, provided, however, that no rule which is required to comply with state, or local law may be so suspended.

# ARTICLE XIII. SEVERABILITY

If any section, clause, provision, or portion of these rules shall be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section, clause, provision, or portion of these rules.

# ARTICLE XIV. CERTIFICATE OF ADOPTION

The foregoing Rules of Procedure of the City of ColumbusEdinburgh/Bartholomew/Columbus Joint District Plan Commission specifically repeal the Rules of Procedure adopted by the Commission and any amendments heretofore adopted by the Commission. These rules are hereby adopted by the affirmative vote of the Commission this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 20052000.

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